

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ROBERTO MIRANDA ZAMARRON,

Petitioner,

vs.

STATE OF NEVADA, *et al.*,

Respondents.

Case No.3:10-CV-00094-ECR-VPC

ORDER

The Motion to Dismiss, filed by respondents on May 12, 2010 is before the Court on petitioner's declaration of abandonment. Despite petitioner's assertion that he has still not received the state's motion to dismiss and supporting exhibits, and prior to the Court's receipt from respondents' of the evidence that petitioner received legal mail on December 17, 2010 and collected that mail on December 20, 2010,¹ petitioner has filed a "Reply to Order of April 6, 2011" (ECF No. 29). In this document petitioner advises the Court of his intention to abandon the unexhausted claims identified by respondents in their motion to dismiss and in the Court's Order.

Because petitioner has not opposed the motion to dismiss and, in fact concedes its accuracy, the Motion to Dismiss shall be granted and his declaration of abandonment shall be filed. LR 7-2.

¹ The Court notes that the mail log provided by respondents indicate the date of receipt of legal mail and the date the inmate collected the legal mail. The log does not, however, indicate either the substance or the size of the mail. Thus, there is no way to determine from this documentation, what, exactly, petitioner received. However, the dates coincide with the certificate of mailing filed by respondents on December 16, 2010, in response to the Court's directive to re-mail the motion to dismiss to petitioner. Thus, the Court concludes the motion by respondents was mailed and received by petitioner.

IT IS FURTHER ORDERED that the Clerk shall detach and file the Petitioner's Declaration of Election to Abandon [sic] Claims" attached to the Reply to Order (ECF No. 29).

IT IS FURTHER ORDERED that respondents shall have 30 days to file their Answer to the remaining claims for relief. Thereafter, petitioner shall have 30 days to file his reply.

Edward C. Reed.
UNITED STATES DISTRICT JUDGE